

LETTER

FROM

THE SECRETARY OF WAR,

IN RELATION

To the survey and assignment of the lands of emigrated Indians.

APRIL 24, 1838.

Referred to the Committee on Indian Affairs, and ordered to be printed.

WAR DEPARTMENT,
April 19, 1838.

SIR: I have the honor to transmit a communication from the Commissioner of Indian Affairs, accompanying the draught of a bill, providing for the survey and assignment of lands of the emigrated Indians, and other papers explanatory thereof.

Very respectfully,

Your most obedient servant,

S. COOPER,
Acting Secretary of War.

Hon. HUGH L. WHITE,
Chairman of Committee Indian Affairs, Senate.

WAR DEPARTMENT,
Office Indian Affairs, April 19, 1838.

SIR: I have the honor to lay before you, to be laid before the committees on Indian Affairs in the Senate and House of Representatives, if you think proper, the draught of a bill, providing for the survey and assignment in severalty of lands belonging to the emigrated tribes beyond the Mississippi. The accompanying copies of a petition of the Pottawatamies on the Osage river, and of a letter from Mr. McCoy, through whom it was transmitted, explain the origin and objects of the bill.

Very respectfully,

Your most obedient servant,

C. A. HARRIS,
Commissioner.

Captain S. COOPER,
Acting Secretary of War.

POTTAWATAMIE COUNCIL HOUSE,
Indian Territory, January 23, 1838.

OUR FRIEND : We, the undersigned, chiefs and principal men, and common men of the Pottawatamie nation, respectfully lay before you this our petition, requesting that the same may be brought before the President and Congress of the United States.

The last summer and fall we arrived at this place, which the Government has designated for our future and permanent home. We are aware that we can no longer hope for subsistence from the chase. We have come to this place with the design of building houses, making fields, raising cattle, hogs, sheep, and horses, and following such pursuits as belong not to the hunter, but to the civilized man.

This makes it necessary that each man should become the special owner of the land he improves. Before we came here, and as an inducement to our removal, we were assured by the agents of the Government, that our lands should be marked off to us severally. When we arrived, the exterior boundaries of our entire tract were pointed out to us, but no dividing lines were drawn to distinguish severally the lands of individuals; the consequence was that they who had least to hinder them, first sought the best places for settlement, and marked them for their own. Very many settlements have been located in this way, to be improved hereafter.

We have good reason to fear that many of these claims will clash, greatly to the disturbance of the peace of society, and, therefore, we earnestly request, that our lands may be laid out in separate tracts, suitable for farms, and that a fair distribution of the same be made among us.

The object of our petition is strongly urged by the character of our country. By far the greatest portion of it is prairie. The wood is confined almost exclusively to the low grounds along the water-courses. Unless our lands are so laid out as to attach a fair proportion of wood land and of prairie to each, a distressing want of wood must soon be felt. The first who locate their farms, may select, for that purpose, the rich and well timbered bottom lands, and consequently throw others into the naked prairie.

Among us also, are widows with families to provide for. These families have not an equal chance with others to dash forward into the wilderness at once in search of suitable farming places; consequently they who have the strongest claims upon the bounty of our country, will be thrown into the rear to gather up the refuse.

It is our desire, that so far as it can be done consistently with justice, they who have made locations, or designated them by marks, may have their lands so laid off as to include their improvements severally.

We request that the subject of our petition receive attention as early as possible. The planting season is rapidly approaching, prior to which it will be necessary for each to know where he may erect his house, or make his field with certainty.

We have requested our agent, A. L. Davis, to put our words on this paper, to which we sign our names, and we send our talk to you by our friend Isaac McCoy, whose personal knowledge of the character of the country

will enable him more fully to explain the urgency of our claims than can be done on paper.

(Signed by)

TO-PE-NA-PEE,

Principal Chief, and 110 others.

Signed in presence of,

A. L. DAVIS, *Indian Sub-agent.*

To Hon. C. A. HARRIS,

Commissioner of Indian Affairs.

WASHINGTON, D. C.,

March 5, 1838.

SIR: I beg leave, herewith, to enclose you the petition of the Pottawatomies, for a subdivision of their lands, so far as to enable each desiring to improve a farm to do it with certainty within limits which shall permanently describe his plantation, and, also, an extract of a letter from Major Davis, the United States sub-agent for the tribe, desiring my attention to the subject. Irrespective of the request of the agent and of the Indians, the importance of the subject is such as to urge me to respectfully and earnestly solicit an early and favorable consideration of the prayer of the petitioners. I have made inquiry, and have no doubt that it is true, as they state, that they were assured before leaving Indiana that their lands would be marked off to them severally, and, although such assurances, I presume, were not authorized by the department, yet, as the circumstances were such as to justify the Indians in believing that they were, it would seem to be a violation of a moral obligation now to disappoint their reasonable expectations. But, had no such promise been made to them, their appeal would still have been almost irresistible; their statements, with regard to the character of their country, the selecting and marking of farming places, the danger there is that claims will clash, and that injustice will be done to some most in want of assistance, I know to be true, and their declaration that, satisfied that they cannot subsist by the chase, they have gone to their new homes, not to live as hunters, but to adopt the habits of civilized life, furnishes substantial reasons for their being allowed to hold land in severalty. Their desire to have their particular boundaries described so that their improvements may be secured to them and theirs, is in a high degree gratifying, as tending greatly to abolish the barbarous custom of community of right, so directly opposed to civilization. This, I believe, is the first instance of Indians asking for a subdivision of land, and I beg leave, respectfully, to repeat my earnest request that it may be favorably considered. Should the prayer of the petitioners be granted, I would respectfully recommend that a tract not exceeding in quantity 320 acres, to be laid off to each head of a family, or other persons desiring immediately to improve the same. The surveys must, necessarily, either include or adjoin water-courses, because wood is seldom found on uplands. Where the wood on water-courses is sufficient to admit of settlements on both sides, I would respectfully recommend that surveys be made to front on the water-course, and run back from it on each side for quantity. When the belt of timber is too narrow to be advantageously divided, let the wood be made to supply only one tier of lots; unless, in particular cases, obvious reasons forbid it, I would recommend that the lines be made to the

cardinal points. Many of the lots may contain much less than half a section. I suppose that about eighty poles might be considered an average front on a tolerably well wooded water-course. I would also recommend that, besides the return of the surveys to your office after the lots have been distributed, a copy of field notes and plats be filed in the office of superintendent, with which the agent should be furnished so far as he should need them. At present an assignment of the lots could be made so as to give general satisfaction. To this end, I would respectfully recommend that the agent be instructed to require the tribe to select five of their most suitable men to make the assignment to each, the agent presiding, and that the several locations of these five persons shall have the concurrence of a majority of the others. It should also be distinctly understood that the receiving of a lot of land as his own would not affect the claim of the individual to a just portion, including his present tract, of the whole amount of land owned by the tribe. Those people have been taught to expect that their country would be sufficient in extent to allow to each soul 320 acres. It would be well for the agent to explain to them the impropriety of marking off lands at this time for their wives and for their children, and that all that is necessary at present is to fix metes and bounds so far only as to secure to such as are ready to improve farms the peaceable possession of them. Being in great want of teams and agricultural implements, it would be to their convenience, in many instances, for two or three families to unite their means the present year; and should the agent advise them to do so, the burden of compliance with their request would be much lightened. Understanding that their claims to the lands which would remain the common property of the nation would be affected only to the extent of the lot which they now received, many would be satisfied with eighty or one hundred acres. One hundred and eleven persons have signed this petition. Making some allowances for persons not present at the signing, we may assume that one hundred and fifty lots will be demanded this year. In making these surveys, the operations will differ considerably from that of surveying public lands by regular sectional lines. In the present business, an examination to some extent must be made in each case before the boundaries of the lot shall be defined. On this account, I would recommend that the surveyor be paid by the day, and not by the mile. You are aware, sir, that the most speedy action of the department would barely reach the case before the Indians will be engaged in making their fields.

I have the honor to be,

Sir, with great respect,

Your obedient servant,

ISAAC McCOY.

HON. C. A. HARRIS,

Commissioner of Indian Affairs.

Whereas, by the act of May 28th, 1830, entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi," the President is authorized to cause the boundaries of the lands assigned to the several tribes west of the Mississippi river to be distinctly marked: And whereas, some of the emigrated Indians, particularly the Pottawatamies, on the Osage river, have expressed a desire to hold lands in severalty, and that farm

lots may be surveyed and marked for such as wish to cultivate and improve them; therefore,

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the President be, and is hereby, authorized to cause to be surveyed and marked for each individual of the emigrated Indians, who may desire to cultivate and improve land, a tract or farm lot, of suitable dimensions, not exceeding, in any case, three hundred and twenty acres, under such directions as he may prescribe.

SEC. 2. *Be it further enacted,* That field-notes and plats of the surveys so made, and the necessary evidences of title, shall be filed in the proper offices.

SEC. 3. *Be it further enacted,* That no tract or farm lot surveyed, marked, and assigned to any emigrated Indian, under the authority of this act, shall be conveyed to any person whatever within twenty years, nor after that time, to any one not of Indian descent, and an acknowledged member of an Indian tribe; nor shall any individual, reputed to be a white person, whether a citizen of the United States or of a foreign country, be introduced by an Indian, or by the authorities of a tribe, into the country set apart for emigrated Indians.

SEC. 4. *Be it further enacted,* That, for the purpose of carrying into effect this act, in relation to the Pottawatamies on the Osage river, the sum of five thousand dollars be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

